

judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

(3) If no such authorization be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(4) If the Bench differ in opinion, any dissentient member may write a separate judgment.

CHAPTER XXIII.

OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION.

A.—Preliminary.

266. In this Chapter, except in sections 276 and 307, and in Chapter XVIII, "High Court" ¹[means ²the High Court ³for a Part A State or a Part B State]], and includes such other Courts as the ⁴[State] Government may by notification in the Official Gazette, declare to be High Courts for the purposes of this Chapter ⁵[and of Chapter XVIII].

267. All trials under this Chapter before a High Court shall be by jury,

267. All trials under this Chapter before a High Court ⁶[or the Court of Session for Greater Bombay] shall be by jury, and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent ⁷[or ⁸law by which the High Court is constituted or continued] the trial may, if the High Court so directs, be by jury.

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent or law by which the High Court is constituted or continued the trial may, if the High Court so directs, be by jury.

268. All trials before a Court of Session shall be either by jury or by the Judge himself.

⁹[268. All trials before a Court of Session shall be either by jury or by the Judge himself.]

269. (1) The State Government may by order in the Official Gazette, direct that the trial of all offences, or of any particular class of offences, before any

269. (1) The ¹⁰[⁴State] Government may ¹¹[in consultation with the High Court] by order in the Official Gazette, direct that the

¹ Substituted by the A. O. 1937 for "means a High Court of Judicature established under the Indian High Courts Act, 1861, or the Government of India Act, 1915, and includes the Chief Court of Oudh, the Court of the Judicial Commissioner of Sind, and such other Courts as the G. G. in C. may, by notification in the Gazette of India".

² Substituted by the A. O. 1950 for "a High Court within the meaning of the Government of India Act, 1935".

³ Substituted by Act 1 of 1951, s. 12, for "for a Part A State".

⁴ Substituted by the A. O. 1950 for "Provincial".

⁵ Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 76.

⁶ Inserted by Bom. 32 of 1948, s. 4.

⁷ Substituted by the A. O. 1950 for "of any High Court established under the Indian High Courts Act, 1861, or the Government of India Act, 1915, or the Government of India Act, 1935".

⁸ Substituted by Act 1 of 1951, s. 13, for "order".

⁹ Substituted by Act 26 of 1955, s. 38, for the original.

¹⁰ Substituted by the A. O. 1937 for "L. G.".

¹¹ Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

¹² The words "with the previous sanction of the G. G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

Court of Session, shall be by jury in any district, and may, revoke or alter such order.

trial of all offences, or of any particular class of offences, before any Court of Session ¹[other than the Court of Session for Greater Bombay] shall be by jury in any district, and may, ^{2*} * * * revoke or alter such order.

(2) The ³[State] Government], by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offences shall, if the judge, on application made to him or of his own motion so directs, be by jurors summoned from a special jury list, and may revoke or alter such order.

(3) When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and ⁴[by the Judge himself] for such of them as are not triable by jury.

⁵[(4) When, in respect of a trial in which the accused is charged with an offence triable by jury, it appears to the High Court, on an application made to it or otherwise, that having regard to the volume or complexity of the evidence in the case, the trial is not likely to be concluded within two weeks from its commencement, or that the case would involve consideration of evidence of a highly technical nature, which renders it undesirable that it should be tried by a jury, the High Court may, notwithstanding anything contained in any order made under subsection (1), by order, direct that that case shall be tried by the Judge himself without a jury and the Judge shall proceed to try the case accordingly.]

270. In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor.

Trial before Court of Session to be conducted by Public Prosecutor.

B.—Commencement of Proceedings.

Commencement of trial. 271. (1) When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged or claims to be tried.

Plea of guilty. (2) If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

Refusal to plead or claim to be tried. ⁷[272. If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall, in a case triable by jury, proceed to choose jurors as hereinafter directed and to try the case, but in any other case, the Judge shall proceed to try the case himself:

Provided that, in cases triable by jury, the same jury may, subject to the right of objection hereinafter mentioned, try as many accused persons successively as the Court thinks fit.]

¹ Inserted by Bom. 32 of 1948, s. 6.

² The words "with the like sanction" rep. by the Repealing and Amending Act, 1927 (10 of 1927), s. 3 and Sch. II.

³ Substituted by the A. O. 1937 for "L. G."

⁴ Substituted by the A. O. 1950 for "Provincial".

⁵ Substituted by Act 26 of 1965, s. 39 (a), for "by the Court of Sessions with the aid of jurors as assessors".

⁶ Inserted, *ibid.*, s. 39 (b).

⁷ Substituted, *ibid.*, s. 40.

273. (1) In trials before the High Court, when it appears to the High Court, Entry on unsustainable charges.
at any time before the commencement of the trial of the person charged, that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to that effect.

(2) Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be. Effect of entry.

C.—Choosing a Jury.

274. (1) In trials before the High Court the jury shall consist of nine persons. Number of jury.

(2) In trials by jury before the Court of Session the jury shall consist of such uneven number, not being less than seven or more than nine, as the State Government by order applicable to any particular district or to any particular class of offences in that district, may direct :

Provided that, where any accused person is charged with an offence punishable with death, the jury shall consist if practicable, of nine persons.

274. (1) In trials before the High Court ¹[or the Court of Session for Greater Bombay] the jury shall consist of nine persons. Number of jury.

(2) In trials by jury ²[before any other Court] of Session the jury shall consist of such uneven number, not being less than ³[seven] or more than nine, as the ⁴[⁵[State] Government], by order applicable to any particular district or to any particular class of offences in that district, may direct :

⁶[Provided that, where any accused person is charged with an offence punishable with death, the jury ⁷[shall consist if practicable, of nine persons.]

275. [Jury for trial of European and Indian British subjects and others.] Rep. by Act 17 of 1949, s. 3 (2).

276. The jurors shall be chosen by lot from the persons summoned to act as such in such manner as the High Court may from time to time by rule direct : Jurors to be chosen by lot.

Provided that—

first, pending the issue under this section of rules for any Court the practice now prevailing in such Court in respect to the choosing of jurors shall be followed ; Existing practice maintained ;

276. The jurors shall be chosen by lot from the persons summoned to act as such in such manner as the High Court may from time to time by rule direct : Jurors to be chosen by lot.

Provided that—

first, pending the issue under this section of rules for any Court the practice now prevailing in such Court in respect to the choosing of jurors shall be followed ; Existing practice maintained ;

¹ Inserted by Bom. 32 of 1948, s. 7.

² Substituted by s. 7, *ibid.*, for "before the Court".

³ Substituted for "five" by Act 26 of 1955, s. 41 (i).

⁴ Substituted by the A. O. 1937 for "L. G.".

⁵ Substituted by the A. O. 1950 for "Provincial".

⁶ Inserted by Act 12 of 1923, s. 13.

⁷ Substituted by Act 26 of 1955, s. 41 (ii), for the original portion.

persons not
summoned
when
eligible ;

secondly, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present ;

trials before
special
jurors.

thirdly, in a trial before any High Court in the town which is the usual place of sitting of such High Court—

(a) if the accused person is charged with having committed an offence punishable with death, or

(b) if in any other case a Judge of the High Court so directs,

the jurors shall be chosen from the special jury lists hereinafter prescribed ; and

fourthly, in any district for which the State Government has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325.

Names of
jurors to be
called.

277. (1) As each juror is chosen, his name shall be called aloud, and upon his appearance, the accused shall be asked if he objects to be tried by such juror.

Objection to
jurors.

(2) Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated :

Objection
without
grounds
stated.

Provided that, in the High Court objections without grounds stated shall be allowed to the number of eight on behalf of the Government and eight on behalf of the person or all the persons charged.

persons not
summoned
when
eligible ;

secondly, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present ;

trials before
special
jurors.

thirdly, ¹[in a trial before any High Court in the town which is the usual place of sitting of such High Court ²[or before the Court of Session for Greater Bombay]]—

(a) if the accused person is charged with having committed an offence punishable with death, or

(b) if in any other case a Judge of the High Court so directs,

the jurors shall be chosen from the special jury list hereinafter prescribed ; and

fourthly, in any district for which the ³[State] Government] has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325.

Objection
without
grounds
stated.

Provided that, in the High Court ⁴[or the Court of Session for Greater Bombay], objections without grounds stated shall be allowed to the number of eight on behalf of the ⁵[Government] and eight on behalf of the person or all the persons charged.

¹ Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 77, for "in the presidency-towns".

² Inserted by Bom. 32 of 1948, s. 8.

³ Substituted by the A. O. 1937 for "L. G."

⁴ Substituted by the A. O. 1950 for "Provincial".

⁵ Inserted by Bom. 32 of 1948, s. 9.

⁶ Substituted by the A. O. 1950 for "Crown".

278. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—

Grounds of objection.

- (a) some presumed or actual partiality in the juror ;
- (b) some personal ground, such as alienage, deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty-one or above the age of sixty years ;
- (c) his having by habit or religious vows relinquished all care of worldly affairs ;
- (d) his holding any office in or under the Court ;
- (e) his executing any duties of police or being entrusted with police-duties ;
- (f) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury ;
- (g) his inability to understand the language in which the evidence is given, or when such evidence is interpreted the language in which it is interpreted ;
- (h) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

279. (1) Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

Decision of objection.

(2) If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 276, or if there is no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury :

Supply of place of juror against whom objection allowed.

Provided that no objection to such juror or other person is taken under section 278 and allowed.

280. (1) When the jurors have been chosen, they shall appoint one of their number to be foreman.

Foreman of jury.

(2) The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors.

(3) If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court.

281. When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873.

Swearing of jurors.

[282. (1) If, in the course of a trial by jury at any time before the return of the verdict,—

Procedure when juror ceases to attend etc.,

- (a) any juror, from any sufficient cause, is prevented from attending the trial on any day, or
- (b) if any juror absents himself and it is not practicable to enforce his attendance, or
- (c) if it appears that any juror is unable to understand the language in which the evidence is given or, when such evidence is interpreted, the language in which it is interpreted,

the Court, in any case falling under clause (a), may either adjourn the trial or discharge the juror and in any case falling under clause (b) or clause (c), shall discharge the juror ; and in any case where any juror is so discharged, the jury shall

be deemed to be reconstituted with the remaining jurors as if the jury had consisted of such persons only from the commencement of the trial and the trial shall proceed before the jury so reconstituted ; and notwithstanding anything contained elsewhere in this Code, such trial shall not be invalid by reason only of the fact that the number of persons originally constituting the jury has been reduced.

(2) Notwithstanding anything contained in sub-section (1), if, in the course of a trial by jury, the number of persons constituting the jury is so reduced that,—

(a) when the jury originally consisted of nine persons, it falls below seven, or

(b) when the jury originally consisted of seven persons, it falls below five,

the jury shall be discharged and a new jury chosen, and in each of such cases, the trial shall commence anew.]

Discharge of jury in case of sickness of prisoner.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.

D.—Choosing Assessors.

284. [Assessors how chosen]. Omitted by Act 26 of 1935, s. 43.

284A. [Assessors for trial of European and Indian British subjects and others.] Rep. by Act 16 of 1949, s. 3 (2).

285. [Procedure when assessor is unable to attend]. Omitted by Act 26 of 1935, s. 43.

285A. [Trial of European or Indian British subject or European or American jointly accused with others]. Rep. by Act 17 of 1949, s. 3 (2).

E.—Trial to Close of Cases for Prosecution and Defence

Opening case for prosecution.

286. (1) ¹[In a case triable by jury, when the jurors have been chosen or, in any other case, when the Judge is ready to hear the case] the prosecutor shall open his case by reading from the Indian Penal Code or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused. XLV
1860.

Examination of witnesses.

(2) The prosecutor shall then examine his witnesses.

Examination of accused before Magistrate to be evidence.

287. The examination of the accused ²[if any] recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.³

Evidence given at preliminary inquiry admissible.

288. The evidence of witness ⁴[duly recorded in the presence of the accused under Chapter XVIII] may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case ⁵[for all purposes subject to the provisions of the Indian Evidence Act, 1872]. I of
1872.

¹ Substituted by Act 26 of 1955, s. 44, for the original portion.

² Substituted by *ibid.* s. 45, for "duly".

³ See the Indian Evidence Act, 1872 (I of 1872), s. 80.

⁴ Substituted for "duly taken in the presence of the accused before the committing Magistrate" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 78.

⁵ Inserted by s. 78, *ibid.*

289. (1) When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence. Procedure after examination of witnesses for prosecution.

(2) If he says that he does not, the prosecutor may sum up his case ; and, if the Court considers that there is no evidence that the accused committed the offence, it may then ¹[in a case tried by the Judge himself], record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(3) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is no evidence that the accused committed the offence, the Court may then, ¹[in a case tried by the Judge himself] record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(4) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence.

290. The accused or his pleader may then open his case, stating the facts or Defence. law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any) and after their cross-examination and re-examination (if any) may sum up his case.

291. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance ; but he shall not, except as provided in sections ²[207A] 211 and 231, be entitled of right to have any witness summoned other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial. Right of accused as to examination and summoning of witnesses.

³[292. The prosecutor shall be entitled to reply—

(a) if the accused or any of the accused adduces any oral evidence ; or

(b) with the permission of the Court, on a point of law ; or

(c) with the permission of the Court, when any document which does not need to be proved is produced by any accused person after he enters on his defence :

Provided that, in the case referred to in clause (c) the reply shall, unless the Court otherwise permits, be restricted to comment on the document so produced.] Prosecutor's right of reply.

293. (1) Whenever the Court thinks that the jury ^{4*} should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect, and the jury ^{4*} shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court. View by jury or assessors.

¹ Substituted by Act 26 of 1955, s. 46, for the original portion.

² Inserted, *ibid.*, s. 47.

³ Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 79, for the original s. 292.

⁴ The words "or assessors" were omitted by Act 26 of 1955, s. 48.

(2) Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury ^{1*} * and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

When juror
or assessors
may be
examined.

294. If a juror ^{2*} * is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

Jury or
assessors to
attend at
adjourned
sitting.

295. If a trial is adjourned, the jury ^{3*} * shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Locking
up jury.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day; and subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

Locking
up jury.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court ⁴[or the Court of Session for Greater Bombay] lasting for more than one day; and subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

F.—Conclusion of Trial in Cases tried by Jury.

Charge to
jury.

297. In cases tried by jury, when the case for the defence and the prosecutor's reply (if any) are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided ⁵[and the charge to the jury shall, wherever practicable, be taken down in shorthand in the language in which it is delivered and a transcript thereof signed by the Judge shall form part of the record].

Duty of
Judge.

298. (1) In such cases it is the duty of the Judge—

(a) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

(b) to decide upon the meaning and construction of all documents given in evidence at the trial;

(c) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

(d) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

¹ The words "or assessors" were omitted by Act 26 of 1955, s. 48.

² The words "or assessor" were omitted, *ibid.*, s. 49.

³ The words "or assessors" were omitted, *ibid.*, s. 50.

⁴ Inserted by Bom. 32 of 1948, s. 10.

⁵ Added by Act 26 of 1955, s. 51.

(2) The Judge may, if he thinks proper, in the course of his summing up express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations.

(a) It is proposed to prove a statement made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(b) It is proposed to give secondary evidence of a document the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

299. It is the duty of the jury—

Duty of jury.

(a) to decide which view of the facts is true and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned;

(b) to determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not;

(c) to decide all questions which according to law are to be deemed questions of fact;

(d) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

Illustrations.

(a) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(b) The question is whether a person entertained a reasonable belief on a particular point whether work was done with reasonable skill or due diligence.

Each of these is a question for the jury.

300. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict. Retirement to consider.

Except with the leave of the Court, no person other than a juror shall speak to or hold any communication with, any member of such jury.

301. When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority ¹[or that the jurors are equally divided in opinion]. Delivery of the verdict.

302. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous ²[or the foreman may inform the Judge that the jurors are still equally divided in opinion]. Procedure where jury differ.

¹ Inserted by Act 26 of 1955, s. 52.

² Inserted, *ibid.*, s. 53.

Verdict to be given on each charge. Judge may question jury. **303.** (1) Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

Questions and answers to be recorded. (2) Such questions and the answers to them shall be recorded.

Amending verdict. **304.** When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

Verdict in High Court * when to prevail. **305.** (1) When in a case tried before a High Court ^{1*} the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

(2) When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

Discharge of jury in other cases. (3) If the Judge disagrees with the majority, he shall at once discharge the jury.

(4) If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

Verdict in Court of Session when to prevail. **306.** (1) When in a case tried before the Court of Session ^{2*} the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

(2) If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall, ³[unless he proceeds in accordance with the provisions of section 562], pass sentence on him according to law.

Procedure where Sessions Judge disagrees with verdict. **307.** (1) If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which ⁴[any accused person] has been tried, and is clearly of opinion that it is necessary for the ends of justice to submit the case ⁵[in respect of such accused person] to the High Court he shall submit the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed, ⁶[and in such case, if the accused is further charged under the provisions of section 310, shall proceed to try him on such charge as if such verdict had been one of conviction].

⁶[(1A) If, in any such case, the jurors are equally divided in opinion on all or any of the charges on which any accused person has been tried, the Judge shall submit the case in respect of such accused person to the High Court recording his opinion on such charge or charges and the grounds of his opinion, and in such case, if the accused is further charged under the provisions of section 310, he shall proceed to try him on such charge as if the verdict of the jury had been one of conviction.]

¹ The words "or the Court of Session for Greater Bombay" inserted by Bom. 32 of 1948, s. 11, were deleted by Bom. 6 of 1952, s. 2.

² The words "other than the Court of Session for Greater Bombay" inserted by Bom. 32 of 1948, s. 12, were deleted, *ibid.*, s. 3.

³ Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 80.

⁴ Substituted by s. 81, *ibid.*, for "the accused".

⁵ Inserted by s. 81, *ibid.*

⁶ Inserted by Act 26 of 1955, s. 54.

(2) Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which ¹[such accused] has been tried, but he may either remand ¹[such accused] to custody or admit him to bail.

(3) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury, acquit or convict ¹[such accused] of any offence of which the jury could have convicted him upon the charge framed and placed before it; and, if it convicts him, may pass such sentence as might have been passed by the Court of Session.

G.—Re-trial of Accused after Discharge of Jury.

308. Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal. Re-trial of accused after discharge of jury.

²*H.—Conclusion of trial in cases tried by the Judge himself.*

309. (1) When, in a case tried by the Judge himself, the case for the defence and the prosecutor's reply (if any) are concluded, the Judge shall give a judgment in the case. Judgment in cases tried by the Judge himself.

(2) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 562, pass sentence on him according to law.]

I.—Procedure in case of Previous Conviction.

³310. In the case of a trial by a jury ⁴[or by the Judge himself] when the accused is charged with an offence and further charged that he is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for such subsequent offence, the procedure prescribed by the foregoing provisions of this Chapter shall be modified as follows, namely :— Procedure in case of previous conviction.

(a) Such further charge shall not be read out in Court and the accused shall not be asked to plead thereto, nor shall the same be referred to by the prosecution, or any evidence adduced thereon unless and until,

(i) he has been convicted of the subsequent offence, or

⁵[(ii) in the case of a trial by a jury, the jury have delivered their verdict on the charge of the subsequent offence;]

(b) In the case of a trial ⁶[held by the Judge himself] the Court may, in its discretion, proceed or refrain from proceeding with the trial of the accused on the charge of the previous conviction.]

311. Notwithstanding anything in the last foregoing section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under the provisions of the Indian Evidence Act, 1872. When evidence of previous conviction may be given.

¹ Substituted by s. 81 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), for "the accused".

² Substituted by Act 26 of 1955, s. 55, for the original sub-head and section.

³ Substituted by s. 83, of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), for the original s. 310.

⁴ Substituted by Act 26 of 1955, s. 56 (a), for the original portion.

⁵ Substituted, *ibid.*, s. 56 (b), for the original sub-clause.

⁶ Substituted, *ibid.*, s. 56 (c), for the original portion.

J.—List of Jurors for High Court and summoning jurors for that Court.

Number of special jurors.

312. The High Court may prescribe the number of persons whose names shall be entered at any one time in the special jurors list.

Number of special jurors.

J.—List of Jurors for High Court ¹[and the Court of Session for Greater Bombay] and summoning jurors for ²[such Courts].

³[312. The High Court may prescribe the number of persons whose names shall be entered at any one time in the special jurors' list ⁴[for the High Court and the Court of Session for Greater Bombay].

* * * * *

Lists of common and special jurors.

313. (1) The ⁶[Clerk of the State] shall, before the first day of April in each year, and subject to such rules as the High Court from time to time prescribes, prepare—

- (a) a list of all persons liable to serve as common jurors; and
- (b) a list of persons liable to serve as special jurors only,

(2) Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

(3) No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

⁷[(4) The ⁸[State] Government may exempt any salaried servant of the ⁹[Government] from serving as a juror.]

Discretion of officer preparing lists.

(5) The ⁶[Clerk of the State] shall, subject to such rules as aforesaid, have full discretion to prepare the said list as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

Publication of lists, preliminary and revised.

314. (1) Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the ⁶[Clerk of the State], shall be published once in the ¹⁰[Official Gazette] before the fifteenth day of April next after their preparation.

(2) Revised lists of persons liable to serve as common jurors and special jurors respectively, signed as aforesaid, shall be published once in the ¹⁰[Official Gazette] before the first day of May next after their preparation.

(3) Copies of the said lists shall be affixed to some conspicuous part of the court-house.

¹ Inserted by Bom. 32 of 1948, s. 13.

² Substituted by s. 13, *ibid.*, for "that Court".

³ Substituted by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 16, for the original s. 312.

⁴ Inserted by Bom. 32 of 1948, s. 14.

⁵ The proviso was omitted by Act 17 of 1949, s. 3 (3).

⁶ Substituted by the A. O. 1950 for "Clerk of the Crown".

⁷ Substituted by the A. O. 1937 for the original sub-section (d).

⁸ Substituted by the A. O. 1950 for "Provincial".

⁹ Substituted, *ibid.*, for "Crown".

¹⁰ Substituted by the A. O. 1937 for "local Official Gazette".

315. (1) Out of the persons ^{Number of} named in the revised lists afore- ^{jurors to be} said, there shall be summoned ^{summoned.} for each sessions in the town which is the usual place of sitting of each High Court, as many of those who are liable to serve on special or common juries, respectively as the Clerk of the State considers necessary.

315. (1) Out of the persons ^{Number of} named in the revised lists afore- ^{jurors to be} said there shall be summoned ^{summoned.} for each sessions ¹[of the High Court in the town which is the usual place of sitting of such High Court and for each sessions of the Court of Session for Greater Bombay], ²[as many of those who are liable to serve on special or common juries respectively as the ³[Clerk of the State] considers necessary.]

(2) No person shall be so summoned more than once in six months unless the number cannot be made up without him.

(3) If, during the continuance of any sessions, it appears that the number ^{Supplemen-} of persons so summoned is not sufficient, such number as may be necessary of other ^{tary} persons liable to serve as aforesaid shall be summoned for such sessions. ^{summons.}

316. Whenever a High Court has given notice of its intention to hold sittings ^{Summoning} at any place outside the ^{jurors outside} ^{the place of} ^{sitting of} ^{High Courts.} ⁴[town which is the usual place of sitting of such High Court] for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session.

317. (1) In addition to the persons so summoned as jurors, the said Court of ^{Military} Session shall, if it thinks needful, after communication with the Commanding ^{jurors.} Officer, cause to be summoned such number of commissioned and non-commissioned officers in ⁵[the Indian] Army ⁶[or Air Force] resident within ten miles of its place of sitting as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid.

(2) All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code; but no such officer shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent ⁷[official] duty, or for any other special ⁷[official] reason.

318. Any person summoned under section 315, section 316 or section 317, who, ^{Failure of} without lawful excuse, fails to attend as required by the summons, or who having ^{jurors to} attended, depart without having obtained the permission of the Judge, or fails to ^{attend.} attend after an adjournment of the Court after being order to attend, shall be

¹ Substituted by Bom. 32 of 1948, s. 15, for "in the town which is the usual place of sitting of each High Court".

² Substituted by Act 18 of 1923, s. 84, for "at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries".

³ Substituted by the A. O. 1950 for "Clerk of the Crown".

⁴ Substituted by Act 18 of 1923, s. 85, for "presidency-towns".

⁵ Substituted by the A. O. 1950 for "Her Majesty's".

⁶ Inserted by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

⁷ Substituted by s. 2 and Sch. I, *ibid.*, for "military".

deemed guilty of a contempt and be liable, by order of the Judge, to such fine as he thinks fit ; and, in default of payment of such fine, to imprisonment for a term not exceeding six months in the civil jail until the fine is paid :

Provided that the Court may in its discretion remit any fine or imprisonment so imposed.

*K.—List of Jurors
for Court of Session, and summon-
ing Jurors for that Court.*

*K.—List of Jurors ^{1*}
for Court of Session, ²[other than
the Court of Session for Greater
Bombay] and summoning
jurors ^{3*} for that Court.*

Liability to
serve as
jurors or
assessors.

319. All ^{3*} persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors ^{4*} at any trial held within the district in which they reside, or, if the ⁵[⁶[State] Government] on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed.

Exemptions.

320. The following persons are exempt from liability to serve as jurors ^{7*} : namely :—

(a) officers in civil employ superior in rank to a District Magistrate ⁸[(aa) members of Parliament or members of the Legislature of any ^{9*} State ;]

(b) salaried Judges ;

(c) Commissioners and Collectors of Revenue or Customs ;

(d) police-officers and persons engaged in the Preventive service in the Customs Department ;

(e) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty ;

(f) persons actually officiating as priests or ministers of their respective religions ;

(g) persons in ¹⁰[the Indian] Army, ¹¹[Navy], ¹²[or Air Force], except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors ;

(h) surgeons and others who openly and constantly practise the medical profession ;

(i) legal practitioners (as defined by the Legal Practitioners' Act, 1879), ^{XVIII of 1879.} in actual practice ;

(j) persons employed in the Post-Office and Telegraph Departments ;

(k) persons exempted from personal appearance in Court under the provisions ^{XIV of 1882.} of the *Code of Civil Procedure, sections 640 and 641¹³ ;

(l) other persons exempted by the ⁵[⁶[State] Government] from liability to serve as jurors or assessors.

¹ The words "and Assessors" were omitted by Act 26 of 1955, s. 58.

² Inserted by Bom. 32 of 1948, s. 16.

³ The word "male" was omitted by Act 26 of 1955, s. 57 (9).

⁴ The words "or assessors" were omitted, *ibid.*, s. 59 (6).

⁵ Substituted by the A. O. 1937 for "L. G."

⁶ Substituted by the A. O. 1950 for "Provincial".

⁷ The words "or assessors" were omitted by Act 26 of 1955, s. 58.

⁸ Substituted by the A. O. 1950 for the former cl. which has been substituted by the A. O. 1948.

⁹ The words and letters "Part A State or Part C" were omitted by Act 1 of 1951, s. 14.

¹⁰ Substituted by the A. O. 1950 for "Her Majesty's".

¹¹ Inserted by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

¹² Inserted by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

*But now see Code of Civil Procedure, 1908 (5 of 1908).

¹³ See now the Code of Civil Procedure, 1908 (5 of 1908), ss. 132 and 133.

321. (1) The Sessions Judge, and the Collector of the district or such other officer as the ¹[State] Government] appoints in this behalf, shall prepare and make out in alphabetical order a list of persons liable to serve as jurors ^{3*} and qualified in the judgment of the Sessions Judge and Collector or other officer as aforesaid to serve as such, and not likely to be successfully objected to under section 278, clauses (b) to (h), both inclusive.

(2) The list shall contain the name, place of abode and quality or business of every such person ; ^{4*} * * * *

322. Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the court-houses of the District Magistrate and of the District Court, and extracts therefrom in some conspicuous place in the town or towns in or near which the persons named in the extract reside.

323. To every such copy or extract shall be sub-joined a notice stating that objections to the list will be heard and determined by the Sessions Judge and Collector or other officer as aforesaid, at the sessions court-house, and at a time to be mentioned in the notice.

324. (1) For the hearing of such objections the Sessions Judge shall sit with the Collector or other officer as aforesaid and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror, ^{5*} * * * or who may establish his right to any exemption from service given by section 320 and insert the name of any person omitted from the list whom they deem qualified for such service.

(2) In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror ^{6*} shall be omitted from the list.

(3) A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid and sent to the Court of Session.

(4) Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

(5) Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

(6) The list so prepared and revised shall be again revised once in every year.

Annual
revision of
list.

(7) The list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

325. In the case of any district for which the ¹[State] Government] has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge and the Collector of such district or other officer as aforesaid shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the

Preparation
of list of
special jurors.

¹ Substituted by the A. O. 1937 for "L. G. ".

² Substituted by the A. O. 1950 for "Provincial".

³ The words "or assessor" were omitted by Act 26 of 1955, s. 58.

⁴ The words "and, if the person is a European or an American, the list shall mention the race to which he belongs" were omitted by Act 1 of 1951, s. 15.

⁵ The words "or as an assessor" were omitted by Act 26 of 1955, s. 58.

⁶ The words "or assessors" were omitted, *ibid.*, s. 58.

opinion of such Sessions Judge and Collector or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors : Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of liability to serve as an ordinary juror in cases not tried by special jury.

District
Magistrate
to summon
jurors.

326. (1) The Sessions Judge shall ordinarily, seven days at least before the day which he may from time to time fix for holding the sessions, send a letter to the District Magistrate requesting him to summon as many persons named in the said revised list or the said special list as seem to the Sessions Judge to be needed for trials by jury * * * at the said sessions, the number to be summoned not being less than double the number required for any such trial.

* * * * *

(2) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

* * * * *

⁴[Sessions
Judge or
Judicial
Magistrate]
to summon
jurors ⁴.

326. (1) ¹[The Sessions Judge or such Judicial Magistrate as he may appoint in this behalf shall ordinarily, seven days at least before the day which the Sessions Judge may from time to time fix for holding the sessions,] summon as many persons named in the said revised list or the said special list as seem to the Sessions Judge to be needed for trials by jury ²* * * at the said sessions, the number to be summoned not being less than double the number required for any such trial ³ ⁴* * *

(2) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

7* * * * *

Power to
summon
another set
of jurors ⁶.*

327. The Court of Session may direct jurors ⁶* to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors ⁶* for a whole session oppressive or whenever for other reasons such direction is found to be necessary.

Form and
contents of
summons.

328. Every summons to a juror ⁸* shall be in writing, and shall require his attendance as a juror ⁸*, as the case may be, at a time and place to be therein specified.

¹ These words were substituted for the original portion by Bom. 21 of 1954, s. 3, Second Schedule.

² The words "and trials with the aid of assessors" were omitted by Act 26 of 1955, s. 58.

³ The words "and assessors" were omitted, *ibid*.

⁴ The words "and including, where any accused person is a European or an American, as many Europeans or Americans as may be required for the purpose of choosing jurors or assessors for the trial" inserted by Act 12 of 1923, s. 19, were deleted by Act 17 of 1949, s. 3 (4).

⁵ These words were substituted for the words "District Magistrate" by Bom. 21 of 1954, s. 3, Second Schedule.

⁶ The words "or assessors" were omitted by Act 26 of 1955, s. 58.

⁷ Sub-sections (3) and (4) inserted by Act 12 of 1923, s. 19, were omitted, by Act 17 of 1949, s. 3(4).

⁸ The words "or assessor" were omitted, by Act 26 of 1955.

329. When any person summoned to serve as a juror ^{1*} is in the service of the ²[Government] or of a Railway Company, the Court to serve in which he is so summoned may excuse his attendance if it appears on the representation of the head of the office in which he is employed that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public.

When Government or Railway servant may be excused.

330. (1) The Court of Session may for reasonable cause excuse any juror ^{1*} from attendance at any particular session.

Court may excuse attendance of juror or assessor.

(2) The Court of Session may, if it shall think fit, at the conclusion of any trial by special jury, direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months.

Court may relieve special jurors from liability to serve again as jurors for twelve months.

331. (1) At each session the said Court, shall cause to be made a list of the names of those who have attended as jurors ^{3*} at such session.

List of jurors and assessors attending.

(2) Such list shall be kept with the list of the jurors ^{3*} * as revised under section 324.

(3) A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

332. (1) Any person summoned to attend as a juror ^{4*} * who without lawful excuse, fails to attend as required by summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court, after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

Penalty for non-attendance of juror or assessor.

(2) Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror ^{1*} within the local limits of the jurisdiction of the Court making the order.

(3) For good cause shown, the Court may remit or reduce any fine so imposed.

(4) In default of recovery of the fine by attachment and sale, such juror ^{1*} may, by order of the Court of Session, be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term.

L.—Special Provisions for High Courts.

333. At any stage of any trial before a High Court under this Code, before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of Government that he will not further prosecute the defendant

Power of Advocate General to stay prosecution.

L.—Special Provisions for High Courts ⁵[and the Court of Session for Greater Bombay].

333. At any stage of any trial before a High Court ⁶[or the Court of Session for Greater Bombay] under this Code, before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of ⁷[Government] that he

Power of Advocate General to stay prosecution.

¹ The words "or assessor" were omitted by Act 26 of 1955, s. 58.

² Substituted by the A. O. 1950 for "Crown".

³ The words "and assessors" were omitted by Act 26 of 1955, s. 58.

⁴ The words "or as an assessor" were omitted, *ibid.*

⁵ Inserted by Bom. 32 of 1948, s. 17.

⁶ Inserted by s. 18, *ibid.*

⁷ Substituted by the A. O. 1950 for "Her Majesty".

upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

Time of holding sittings.

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

Place of holding sittings.

335. (1) The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the ¹[State] Government], may direct.

(2) But it may, from time to time ^{3* * * *} with the consent of the ⁴[State] Government], hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Notice of sittings.

(3) Such officer as the Chief Justice directs shall give notice beforehand in the ⁵[Official Gazette], of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

¹ 336. [Place of trial of European British subjects.] Rep. by the Criminal Law Amendment Act, 1923 (XII of 1923), s. 20.

CHAPTER XXIV. ✓

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

Tender of pardon to accomplice.

337. ⁶[(1) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment ⁷[which may extend to seven years] or any offence under any of the following sections of the Indian Penal Code, namely, sections ⁸[161, 165, 165A,] 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or any ^{XLV} Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof:

¹ Substituted by the A. O. 1937 for "G. G. in C. in the case of the High Court at Fort William, or the L. G. in the case of the other High Courts".

² Substituted by the A. O. 1950 for "Provincial".

³ The words "in the case of the High Court at Fort William with the consent of the G. G. in C. and in all other cases" rep. by the A. O. 1937.

⁴ Substituted by the A. O. 1937 for "L. G."

⁵ Substituted, *ibid.*, for "local official Gazette".

⁶ Sub-sections (1) and (1A) substituted for the original sub-section (1) by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 86.

⁷ Substituted by Act 26 of 1955, s. 59 (a) (i), for the original portion.

⁸ Inserted, *ibid.*, s. 59 (a) (ii).